

25. Day Care, Child Care, Preschool and Home Day Care

(See Zoning Ordinance § [78-401.3\(c\)\(2\)](#), *Daycare Centers, Childcare Centers and Preschools as principal uses*, § [78-402.7\(h1\)](#), *Daycare Center, Childcare Center or Pre-School as an Accessory Use to a Principal Commercial Use or as an Accessory Use in a PDR District*, § [78-402.7\(k\)](#), *Home-Based Businesses Including Daycare or Childcare*, § [78-402.7\(t\)](#), *School Uses in Conjunction with Religious Institutions*, and § 78-701, *Definitions*.)

The Town of Herndon Zoning Ordinance User Guide series provides the public with general information on land use regulations affecting activities undertaken by the public and administered by the Herndon Department of Community Development. It is not intended to be a complete statement of all applicable regulations. Individuals are encouraged to contact the Department of Community Development at 703-787-7380 for complete permitting requirements.

How does Herndon define day care, child care and preschool?

For land use purposes, Herndon categorizes day care, child care and preschool together with the same land use standards. Generally, (other than preschool) these facilities provide care for children who are under 14 years of age and who do not stay overnight.

How does Herndon regulate day care, child care and preschool?

Herndon provides for four types of day care facilities:

- ☐ As a commercial principal use (such as a stand-alone building on its own site);
- ☐ As a commercial accessory use (occupying space in a building with other uses);
- ☐ As an accessory use to religious institutions;
- ☐ As a home-based business with a maximum of seven children or adults in a single family detached dwelling or five children or adults in all other dwelling units (see User Guide #14, *Conducting a Business in the Home*).

Where does Herndon allow day care, child care and preschool?

Day care as a principal use is permitted only by special exception in the R-15, R-10, CCD, CO and O&LI zoning districts. It is also allowed when requested as part of a rezoning for certain planned development districts. Day care as an accessory use is permitted only by special exception in the CC, CS, CO, O&LI zoning districts, and also allowed when requested as part of a rezoning for any planned development district.

Are land use permits required to conduct a day care, child care or preschool business?

Yes. Permits include:

- ☐ A Special Exception subject to review by the Planning Commission and approval by the Town Council (if not a home-based business);
- ☐ A Special Exception subject to review by the Planning Commission and approval by the Town Council if the requested number of clients exceeds the allowable number for a home-based business;
- ☐ A Zoning Inspection Permit (application form available upon request) if located in a newly constructed free standing building or in a home as a business;
- ☐ A Zoning Appropriateness Permit (application form available upon request) if located in an existing commercial space;
- ☐ A Business License (application form available upon request).

What is involved in obtaining a Special Exception?

Some day care, child care and preschool uses are permitted only with a special exception, requiring review and recommendation by the Planning Commission and approval by the Town Council in a public hearing (see *User Guide #4, Special Exceptions*). The applicant must complete an application along with all information specified in §78-202.3 of the Zoning Ordinance. Information submitted with the application must show how the use will meet the standards described below and it must include a general plan of the site as well as a traffic impact study, if applicable.

What are the land use standards for day care, child care and preschool?

As a **principal use**, the facility must:

- ☐ Include an outdoor recreation area with a minimum of 100 square feet for each child permitted, meeting the following standards:
 - Be enclosed by a fence which allows air and light to penetrate it and be capable of containing each child using the area;
 - Not be within a required building setback;
 - Not be closer than 15 feet to the edge of any public right-of-way; and
 - Not be within a parking area.
- ☐ Design parking areas and vehicular circulation patterns to:
 - Enhance the safety of children as they arrive at and leave the facility.
 - Include a designated pickup and delivery area, providing at a minimum one stacking space per 20 children, and
 - Include parking spaces at a rate of one per employee plus one space per five children located adjacent to the childcare structure in such a way that visitors may avoid walking across vehicular travel ways to enter or exit the center.
- ☐ Not conduct outdoor play activities before 8 a.m. or after 8 p.m.
- ☐ All stacking lanes are located at least 10 feet from the principal building with either an on-site turnaround or separate points for ingress and egress.
- ☐ If not located in a stand-alone building: (a) be located on the first floor of a principal structure, and (b) be separated (including the restrooms) by a physical barrier from the remaining portion of the building in which it is located.
- ☐ Obtain all required approvals from the Fairfax County Health Department.
- ☐ Obtain all required approvals from the Fairfax County Fire Marshal.
- ☐ Be licensed with the State Commissioner of Social Services in accordance with Code of Virginia, §[63.2-](#)

[1701](#) , and comply with 22-VAC 15-30 and all other relevant state laws.

When conducted **in conjunction with a religious institution**, the day care, child care or preschool must be accessory (subordinate) to the religious institution.

As an **accessory use**, the facility must meet the standards above plus:

- ☐ Not exceed an amount of floor area equivalent to 20 percent of the total floor area of the principal use to which it is accessory.
- ☐ Be compatible with adjacent land uses in terms of hours of operation, noise, lighting, parking and similar considerations.

When conducted as a **business in the home**, the use must:

- ☐ Meet the standards for home based businesses in the zoning ordinance (§[78-402.7](#) (k)(3)). See *User Guide # 14. Conducting a Business in the Home*.
- ☐ Meet the standards for a child care or day care as a home-based business in the zoning ordinance ((§[78-402.7](#) (m))).
- ☐ Have no more than one employee or associate who does not reside at the home.
- ☐ Allow no more than 15 arrivals of non-resident persons who are employees, clients, customers or associates of the business during any 24 hour period when located within a single family detached dwelling and no more than 11 for all other dwelling units.
- ☐ Provide the required play area either at the home or at a suitable play area (public or owned by a homeowners' association to which the residence belongs) located within 1,000 feet of the home.

Please note:

Additional information and permitting may be required by Fairfax County and the Commonwealth of Virginia. Anyone interested in a day care, child care or preschool use within the Town of Herndon should contact any relative county and state agencies.

Need more information?

Have a question regarding required permits, the permit process, or application requirements? Call 703-787-7380 or e-mail community.development@herndon-va.gov to make an appointment to see a member of the Department of Community Development.

Have a question regarding Building Permits or construction codes? Call 703-435-6850 or e-mail buildinginspections@herndon-va.gov to make an appointment to see the Building Official.

Visit the Planning/Zoning page on the Town's web site at www.herndon-va.gov to view Department of Community Development web site for the Zoning Ordinance User Guide series or to access the town code. Town offices are located at the Herndon Municipal Center at 777 Lynn Street, Herndon, Virginia, 20170.

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